

From: Pete Hess
To: dspillman@archcoal.com
Date: 4/12/2005 8:40:06 AM
Subject: Clarification of R645-301-525.541 / Potential Subsidence Effects Outside of the Permit Boundary

Dave.....

It is my understanding that there has been some confusion relative to the interpretation of what the aforementioned coal rule means. Pam has asked me to contact you to clarify the Division's perspective.

At some point in the past Dana Dean, Vicki Miller and I have discussed this issue, relative to subsidence surface damage. At that time, I was of the opinion that any surface DAMAGE should be kept within a Mine's permit boundary. The basis for my thinking was relative to off-site impact evaluation.

Keeping subsidence damage within a Mine's permit boundary could be accomplished in two ways by 1) moving the permit boundary to compensate for the angle of draw / angle of influence inherent with mining up to a lease boundary, or by

2) moving the set-up face location to cause any subsidence induced damage created within the "standardized" angle of influence for the Mine such that the impact would fall inside of or on the permit boundary. This method obviously fails to maximize the effective use of the resource, which is in conflict with the BLM's mandate under Federal law.

The 30 degree angle of influence / angle of draw referred to in R645-301-525.541 is in reference to non-commercial buildings, or occupied residential dwellings or structures related thereto. As far as I know, none of these exist within the SITLA lease at the Dugout Canyon Mine. Therefore 525.541 is not applicable to the undeveloped surface areas of the SITLA lease.

Second, should visible subsidence surface DAMAGE occur outside of a Mine's permit boundary, whether or not that damage must be repaired might depend upon stipulations within an existing surface use agreement. R645-301-525.510 states that a Permittee must correct any MATERIAL damage resulting from subsidence caused to surface lands to the extent technologically and economically feasible. First, whether or not surface DAMAGE constitutes MATERIAL damage must be determined. An example of subsidence damage repair not being technologically feasible would be the repair of an escarpment. An example of an economic limitation might have been the side by side cribbing support of the Elusive Peacock shelter at the SUFCO Mine prior to undermining.

Therefore, it is the Division's opinion that if subsidence damage should occur outside of a Mine's permit boundary, so be it. **The Permittee will be responsible for repairing the damage. If this damage is not within the permit boundary, a surface use agreement with the surface owner will be needed to access and repair the damage.**

The Division hopes this provides clarification for the issue.....

CC: Dana Dean; Pam Grubaugh-Littig; Wayne Hedberg; Wayne Western